

Response Under 37 CFR 1.116
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Remarks

Proposed Drawing Change

A new proposed drawing change is submitted herewith. This new proposed Figure 4 omits reference numerals 30 and 53. After the Examiner has approved addition of this new Figure, Applicant will amend the Specification accordingly.

Discussion of the Claims

The Examiner had maintained that he believed the claims would be allowable if they overcame the rejections under 35 USC 112. Specifically, the Examiner seemed to be of the opinion that the features of the claims were not supported in the specification. The following explanation was provided in a proposed Supplemental Amendment After Final Action, with reference to where the features of the claims are supported in the specification. Applicant's attorney believes the present submission, together with the discussions with the Examiner this week explained the invention and should place the claims in condition for allowance. This submission (in proposal form) was discussed with the Examiner and he stated that he now understands the invention as claimed and believes the claimed features are supported in the specification.

This submission is merely a formal submission of the proposed submission discussed with the Examiner this week. Claim 39 is amended herein to clarify how the apparatus works. The Amendment to claim 39 is derived from the specification on page 2, lines 17 to 25 and page 5, lines 5 and 6. Further, please refer to page 7, lines 15 to 26.

Applicant's attorney believes that the Examiner may not have been able to visualize how the invention works because the units 30 and 53 were included in claim 39,

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although 30 and 53 are present in alternate embodiments. Thus, unit 35 should not include units 30 and 53 for the purposes of discussing the embodiment set forth in amended claim 39, and claim 39 is clearly supported in the specification. Please see page 6, lines 17 to 18 of the specification.

Applicant's attorney noted to the Examiner that the device works with a single spindle. The single spindle 16 is provided for moving the unit 35 between the initial position 23 and the ejector position 24.

With respect to the ejector assembly, the starting position is that the ejector sleeve is positioned on the counter-holder 13 in an initial position. This initial position of the sleeve is derived from the initial position 23 of the unit 35. Please refer to page 7, lines 15 to 26. After the bolt is removed out of the seating 42 of the sleeve, a new tube is positioned onto the counter-holder 13 and the sleeve 41 is automatically pushed by the new tube into an ejector position on the right side of the device. After cutting the cut-off lengths of the tubular sleeve, the unit 35 is positioned in the ejector position 24. The movable bolt 39 engages into the seating 42 of the sleeve and then the unit 35 is moved from the ejector position 24 to the initial position 23. Then the sleeve 41 is automatically guided along the counter-holder 13 to the right end of the counter-holder 13. This is the movement circle of the sleeve 41.

The Examiner questioned whether there was any prior art that has a rail with an ejector. The ejector according to the invention is merely a sleeve, which is slide guided on the counter-holder. Applicant can amend the lead line 21 to Figure 2 as an arrowhead if the Examiner so wishes.

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The Examiner appeared to want further clarification of the description of the bolt 39, and Applicant did not understand why this feature is not understood or is not believed to be supported in the specification. On page 7, lines 16 to 17, the specification describes that the ejector has a movable bolt, which is movable in the direction towards the counter-holder or the ejector sleeve. Applicant believes that this describes the bolt 39, and appreciated the Examiner further clarifying his question after he reviewed page 7, lines 16 to 17 of the specification.

The Examiner stated that he did not see how the ejector can move on the rail and get past 30 and 53. Applicant respectfully believes that the Examiner did not visualize the invention as described in the specification and set forth in the claims. Units 30 and 53 are alternative embodiments. Even if there is an automatic cutting and removal of the sleeves, units 30 and 53 are omitted in presently amended claim 39.

Claim 39 was amended to refer to only one cutting tool, and the Examiner conditionally stated that he believes that will make the claim allowable and overcome the "112" rejections. He wanted to have an opportunity to further review the specification and claims and thus, the present RCE is submitted.

With respect to the Examiner's suggestion to include a prior art reference for moving the slide from the left to the right, Applicant refers to the cited prior art from the Examiner according to US 3,481,234, which shows a cutter assembly 14, which is movable along a slide bar. This slide bar has a swallow-tailed guiding.

Applicant's attorney wishes to thank the Examiner for reviewing the Proposed Supplemental Amendment After Final Action and taking a great deal of time to discuss and consider this case.

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This Supplemental Amendment After Final Action responds to the outstanding office action. This submission does not add new matter.

Applicant's attorney believes that this submission places the claims in condition for allowance or better condition for appeal.

Please continue examination on the basis of the claims set forth in this Supplemental Amendment After Final Action.

Wherefore, further consideration and allowance of the claims is respectfully requested. A three-month extension of time in which to respond to the outstanding Office Action is hereby requested. PTO-2038 authorizing credit card payment for the amount of \$555 is enclosed for the prescribed Small Entity three-month extension fee. A RCE is also submitted herewith, and PTO 2038 is included herewith authorizing charging a credit card for the prescribed \$405 fee. Forms for the Extension of Time Request and the RCE are submitted on a RCE Transmittal and Petition for Extension of Time faxed herewith.

Respectfully submitted,



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CERTIFICATE OF SUBMISSION BY FACSIMILE TRANSMISSION

I hereby certify under 37 CFR §1.8(a) that this correspondence is being submitted to the Art Unit 3724, Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 01/28/2009, fax number 571-273-8300.



M. Robert Kestenbaum

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